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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/784,429	02/15/2001	Eric D. Edwards	50N3690.01/1581	5071

24272 7590 11/16/2005

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EXAMINER

VIEAUX, GARY

ART UNIT

PAPER NUMBER

2612

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/784,429	EDWARDS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gary C. Vieaux	2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

5           A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on  
10   September 6, 2005 has been entered.

### ***Response to Amendment***

          In response to the Final Office Action of June 2, 2005, the title and claims 1, 21, 44, and 45 have been amended.

15           In response to Applicant's amended title, the Examiner finds the title to be more clearly indicative of the invention to which the claims are directed, and therefore, the objection to the title is hereby withdrawn.

          In response to Applicant's amended claim 45, the Examiner finds the amendments correct the identified insufficient antecedent basis, and therefore, the  
20   objection to claim 45 is hereby withdrawn.

### ***Response to Arguments***

          Applicant's arguments with respect to claims 1-45 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5

**Claims 5, 25, and 41** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "economically" in claims 5, 25, and 41 is a relative term that renders the claim indefinite. The term "economically" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The limitation implemented is rendered indefinite, as the parameters of "economically" are not defined so as to differentiate what is considered economical by one of ordinary skill in the art from that which is considered economical by another of ordinary skill in the art.

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***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

20

A person shall be entitled to a patent unless –

25

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-3, 21-23, 43, and 45** are rejected under 35 U.S.C. 102(e) as being anticipated by Tsubaki (US 6,701,058.)

Regarding claim 1, Tsubaki discloses a system for transferring data comprising an imaging device that captures and stores images (fig. 1 indicator 10), a data  
5 destination configured to receive transferred images (fig. 1 indicator 20), and a transfer manager of the imaging device that monitors the memory of the imaging device and automatically transfers the images when a predetermined threshold is exceeded (fig. 5, col. 7 lines 20-32.)

Regarding claim 2, Tsubaki discloses all the limitations of claim 2 (see the 102(e)  
10 rejection to claim 1 supra) including disclosing a system wherein said transfer manager utilizes a wireless communications technique to transfer said data over a wireless network from said imaging device to said data destination (col. 11 lines 7-10.)

Regarding claim 3, Tsubaki discloses all the limitations of claim 3 (see the 102(e)  
15 rejection to claim 1 supra) including disclosing a system wherein said imaging device is implemented as a digital camera device, and wherein said data includes image data (col. 7 lines 15-20) and related identification information (col. 9 lines 24-26.)

Regarding claims 21-23, although the wording is different, the material is considered substantively equivalent to claims 1-3, respectively, as discussed above.

Regarding claim 43, Tsubaki discloses all the limitations of claim 21 (see the  
20 102(e) rejection to claim 1/21 supra), in addition to disclosing a method wherein said transfer manager transmits said data from said imaging device to said data destination by utilizing a cellular telephone network (col. 11 lines 7-10.)

Regarding claim 45, although the wording is different, the material is considered substantively equivalent to claims 1, as discussed above.

***Claim Rejections - 35 USC § 103***

5           The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

10           (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 4, 24, and 42** are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsubaki (US 6,701,058) in view of Kanevsky et al. (US 6,393,470.)

15           Regarding claim 4, Tsubaki discloses all the limitations of claim 4 (see the 102(e) rejection to claim 1 supra) except for disclosing wherein an information source provides identification information to said imaging device for routing said data during a data transfer procedure, said identification information including at least one of a user identifier for identifying said imaging device. However, Tsubaki does disclose providing  
20           identification information for distinguishing data destinations (col. 9 lines 22-23.)

          Nevertheless, Kanevsky discloses a system for transferring data from an imaging device to a data destination in which an information source provides identification information to said imaging device for routing said data during a data transfer procedure ('470 – fig. 2 indicator 205, col. 4 lines 47-51), said identification information including at  
25           least one of a user identifier for identifying said imaging device ('470 – col. 4 lines 50-51.) It would have been obvious to one of ordinary skill in the art at the time of the

invention to include the identification information as taught by Kanevsky with the system as taught by Tsubaki in order to properly route data when utilizing a mobile telephone system (col. 11 lines 7-10.)

Regarding claim 24, although the wording is different, the material is considered  
5 substantively equivalent to claim 4, as discussed above.

Regarding claim 42, Tsubaki discloses all the limitations of claim 21 (see the 102(e) rejection to claim 1/21 supra), except for disclosing a method wherein said imaging device includes a conversion software module for converting said data from a first format that is compatible with said imaging device into a second format that is  
10 compatible with said data destination.

Nevertheless, Kanevsky discloses a system for transferring data from an imaging device to a data destination wherein said imaging device includes a conversion software module for converting said data from a first format that is compatible with said imaging device into a second format that is compatible with said data destination (col. 4 lines 54-  
15 67.) It would have been obvious to one of ordinary skill in the art at the time of the invention to employ the conversion as taught by Kanevsky with the system as taught by Tsubaki so that data may be safely and efficiently transmitted to the data destination.

**Claims 5 and 25** are rejected under 35 U.S.C. 103(a) as being unpatentable  
20 over Tsubaki (US 6,701,058) in view of Kanevsky et al. (US 6,393,470), in view of Tanaka et al. (US 6,919,923.)

Regarding claim 5, Tsubaki and Kanevsky disclose all the limitations of claim 5 (see the 103(a) rejection to claim 4 supra) including disclosing wherein said imaging device captures said data using a capture subsystem, and then temporarily stores said data into data buffers ('470 – fig. 2, col. 3 lines 64-67), said data buffers employing a reduced memory-size configuration ('470 – col. 1 lines 22-25.) However, neither Tsubaki nor Kanevski expressly discloses said data buffers being economically implemented.

The Examiner cites as supporting reference, Tanaka et al., which states “the cost of solid state memory increases almost linearly with its storage capacity” (col. 1, lines 32-33.) This passage supports what is well known with respect to the relationship between memory space and memory cost, that the cost of memory space increases with an increase in memory size (please see Official Notice of Final Office Action dated June 2, 2005, p.9 lines 15-21.) It would have been obvious to one of ordinary skill in the art at the time of the invention to limit the storage capacity within a camera, particularly a camera capable of automatically freeing overloaded storage as taught by Tsubaki and Kanevsky, in order to reduce the associated costs of the memory space, and therefore the cost of the camera as a whole.

Regarding claim 25, although the wording is different, the material is considered substantively equivalent to claim 5, as discussed above.



**Claims 6-10, 12, 15, 17-20, 26-30, 32, and 37-40** are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsubaki (US 6,701,058) in view of Kanevsky et al. (US 6,393,470), in view of Tanaka et al. (US 6,919,923), in further view of Strandwitz et al. (US 6,522,352.)

5        Regarding claim 6, Tsubaki, Kanevsky, and Tanaka disclose all the limitations of claim 6 (see the 103(a) rejection to claim 5 supra) in addition to disclosing a system wherein said transfer manager performs an arbitration procedure with a wireless communications network to transfer said data to said data destination ('470 – col. 6 lines 30-41.) However, Kanevski is not found to expressly disclose said transfer  
10        manager being authorized by said wireless communications network to perform said data transfer procedure when sufficient bandwidth is available on said wireless communications network for transferring all or a specified portion of said data.

             Nevertheless, Strandwitz discloses arbitration of bandwidth upon a wireless network in which a camera is not allowed to transfer data unless the transfer is operable  
15        within the available bandwidth (col. 11 lines 34-44.) It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate controlling the transfer of data when sufficient bandwidth is available within a wireless network as taught by Strandwitz, with the system as taught by Tsubaki, Kanevsky, and Tanaka, as a means to transfer images from an imaging device to a data destination for the benefit  
20        of creating a system that does not have the camera tethered to the data destination by a dedicated data transmission wire.

Regarding claim 7, Tsubaki, Kanevsky, Tanaka, and Strandwitz disclose a system that includes all of the limitations of claim 7 (see the 103(a) rejection to claim 6 supra) in addition to disclosing a system wherein said transfer manager monitors said data buffers, and automatically initiates said arbitration procedure whenever said data stored in said data buffers reaches said predetermined threshold amount ('470 – col. 4 lines 32-38.)

Regarding claim 8, Tsubaki, Kanevsky, Tanaka, and Strandwitz disclose a system that includes all of the limitations of claim 8 (see the 103(a) rejection to claim 6 supra) in addition to disclosing a system wherein said transfer manager initiates said arbitration procedure in response to a system-user authorization event that is caused by a system user activating a user interface on said imaging device ('470 – col. 4 lines 32-38, which would inherently occur upon a user capturing the particular image that causes memory used to be greater than 80%.)

Regarding claim 9, Tsubaki, Kanevsky, Tanaka, and Strandwitz disclose a system that includes all of the limitations of claim 9 (see the 103(a) rejection to claim 6 supra) in addition to disclosing a system wherein said transfer manager transfers said data from said data buffers to said wireless communications network for transmitting to said data destination ('470 – fig. 1, col. 3 lines 18-26.)

Regarding claim 10, Tsubaki, Kanevsky, Tanaka, and Strandwitz disclose a system that includes all of the limitations of claim 10 (see the 103(a) rejection to claim 9 supra) in addition to disclosing a system wherein said transfer manager and a display manager provide status information regarding at least one of said data transfer

procedure ('058 – col. 8 lines 26-32) and said arbitration procedure by utilizing a user interface of said imaging device.

Regarding claim 12, Tsubaki, Kanevsky, Tanaka, and Strandwitz disclose a system that includes all of the limitations of claim 12 (see the 103(a) rejection to claim 9 supra) in addition to disclosing a system wherein said wireless communications network routes said data from said imaging device to said data destination, said wireless communication network identifying said data destination by referring to said destination identifier from said identification information ('470 – fig. 4 indicator 402, col. 4 lines 50-51.)

Regarding claim 15, Tsubaki, Kanevsky, Tanaka, and Strandwitz disclose a system that includes all of the limitations of claim 15 (see the 103(a) rejection to claim 12 supra) as well as teaching a system in which a negative acknowledgement message is sent if data is not received correctly, and which provides an opportunity to repeat the data transmission ('352 –col. 8 lines 58-67, in which a negative acknowledgement message is provided, in addition to a re-try by the transmitter.) It would have been obvious to one of ordinary skill in the art at the time of the invention for the controller of said data destination to send an error message to said imaging device by said wireless communications network after determining that said data and said identification information have not been successfully received, and said transfer manager responsively repeating said data transfer procedure to retransmit said data from said data buffers to said data destination, for the purpose of being able to know if the data transmission was received, and for the purpose of enabling the system to continue to

function without unnecessary user intervention when an unsuccessful transmission occurs.

Regarding claim 17, Tsubaki, Kanevsky, Tanaka, and Strandwitz disclose a system that includes all of the limitations of claim 17 (see the 103(a) rejection to claim 9 supra) in addition to disclosing a system wherein a controller of said data destination analyzes said user identifier from said identification information to identify at least one of said system user ('470 – col. 6 lines 59-60) and said imaging device, said controller then associating said data with said at least one of said system user ('470 – col. 6 lines 60-62) and said imaging device.

Regarding claim 18, Tsubaki, Kanevsky, Tanaka, and Strandwitz disclose a system that includes all of the limitations of claim 18 (see the 103(a) rejection to claim 17 supra) in addition to disclosing a system wherein said controller stores said data into a data file location that uniquely correspond with, and is identifiable with, said at least one of said system user ('470 – col. 6 lines 60-62) and said imaging device.

Regarding claim 19, Tsubaki, Kanevsky, Tanaka, and Strandwitz disclose a system that includes all of the limitations of claim 19 (see the 103(a) rejection to claim 18 supra) in addition to disclosing a system wherein said system user subsequently accesses and utilizes said data from said data file location of said data destination by communicating with said data destination with an electronic data-access device ('470 – col. 2 lines 42-44.)

Regarding claim 20, Tsubaki, Kanevsky, Tanaka, and Strandwitz disclose a system that includes all of the limitations of claim 20 (see the 103(a) rejection to claim

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19 supra) in addition to disclosing a system wherein said system user accesses said data file location of said data destination through a distributed computer network by utilizing a personal computer device ('470 – col. 2 lines 42-44, col. 3 lines 8-26.)

Regarding claims 26-30, 32, 37-40, although the wording is different, the material  
5 is considered substantively equivalent to claims 6-10, 12, 17-20, respectively, as discussed above.

**Claims 11 and 31** are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsubaki (US 6,701,058) in view of Kanevsky et al. (US 6,393,470), in view of  
10 Tanaka et al. (US 6,919,923), in view of Strandwitz et al. (US 6,522,352), in further view of Scorse et al. (US 5,128,776.)

Regarding claim 11, Tsubaki, Kanevsky, Tanaka, and Strandwitz disclose a system that includes all of the limitations of claim 11 (see the 103(a) rejection to claim 9  
supra) but are not found to disclose details on the transfer method of data transfer to the  
15 data destination.

Nevertheless, Scorse et al. disclose a prioritized image transmission system where data is transmitted in the form of multiple message blocks. Each block is checked for error and if errors are found, the receiver sends a list of bad blocks back to the transmitter requesting those be resent (col. 8, lines 25-53). It would have been obvious  
20 to one of ordinary skill in the art at the time of invention to modify the systems taught by Tsubaki, Kanevsky, Tanaka, and Strandwitz by using a method of partial data transfer

as taught by Scorse for the benefit of having efficient means for detecting data transfer errors.

Regarding claim 31, although the wording is different, the material is considered substantively equivalent to claim 11, as discussed above.

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**Claims 13-14, 16, and 33-36** are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsubaki (US 6,701,058) in view of Kanevsky et al. (US 6,393,470), in view of Tanaka et al. (US 6,919,923), in view of Strandwitz et al. (US 6,522,352), in further view of Callaghan et al. (US 6,058,304.)

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Regarding claim 13, Tsubaki, Kanevsky, Tanaka, and Strandwitz discloses a system that includes all of the limitations of claim 13 (see the 103(a) rejection to claim 12 supra) but are not found to disclose a system wherein a controller of said data destination sends a transfer confirmation to said imaging device by said wireless communications network after successfully receiving said data and said identification information.

15

One of ordinary skill in the art of transmitting data, when faced with the problem of verifying if data was or was not received, would look to the solutions of others faced with verification of the reception of data. One such solution is the use confirmation signals. Callaghan (US 6,058,304) teaches sending a message to confirm whether successful transmission of data has occurred and then displays the message to a user (col. 12 lines 7-11.) It would have been obvious to one of ordinary skill in the art at the time of the invention to include a message to signify a successful transfer as taught by

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Callaghan with the system as taught by Tsubaki, Kanevsky, Tanaka, and Strandwitz so that a user would know if the transmission was successful.

Regarding claim 14, Tsubaki, Kanevsky, Tanaka, Strandwitz and Callaghan disclose a system that includes all of the limitations of claim 14 (see the 103(a) rejection to claim 13 supra) as well as disclosing a system wherein said transfer manager and a display manager display said transfer confirmation on a user interface of said imaging device ('304 – col. 12 lines 7-11.) However, although none of the references are found to explicitly disclose an imaging device also erasing said data from said data buffers in response to said transfer confirmation, Kanevski is found to teach a data destination sending instructions for the erasure of data after a transfer has occurred (col. 6 lines 9-11) and Tsubaki is found to teach automatic erasure of image data after transmission ('058 – col. 8 lines 54-58.) It would have been obvious to one of ordinary skill in the art at the time of the invention to erase the data as taught by Kanevski and Tsubaki, after successful transfer of data has been confirmed as taught by Tsubaki, Kanevsky, Tanaka, Strandwitz and Callaghan, so that not only is the system free to acquire more data, but the user is also in possession the knowledge that he/she is free to acquire more data, without the fear or uncertainty of not having enough memory for further acquisitions.

Regarding claims 33, and 34, although the wording is different, the material is considered substantively equivalent to claims 13 and 14, respectively, as discussed above.

Regarding claim 16, Tsubaki, Kanevsky, Tanaka, Strandwitz and Callaghan disclose a system that includes all of the limitations of claim 16 (see the 103(a) rejection to claim 15 supra) as well as including a teaching by Callaghan of a system wherein an message is received and displayed if a transmission is unsuccessful ('304 – col. 12 lines 7-11), and a teaching by Kanevski of a system that stores the data until instructed to erase it ('470 – col. 6 lines 9-11.) It would have been obvious to one of ordinary skill in the art at the time of the invention to include the display of an error message as taught by Callaghan, in combination with continuing to store data until successful transfer is verified, within the system as taught by Tsubaki, Kanevsky, Tanaka, Strandwitz and Callaghan, for the purpose of not only ensuring that data is not removed from the imaging device until it has been successfully transferred to another location, but also for notifying the user that a transfer of data was unsuccessful and therefore amount of available memory for additional acquisition has not been increased.

Regarding claim 35, Tsubaki, Kanevsky, Tanaka, Strandwitz and Callaghan disclose a system that includes all of the limitations of claim 34 (see the 103(a) rejection to claims 14/34 supra), as well as teaching a system in which a negative acknowledgement message is sent if data is not received correctly, and which provides an opportunity to repeat the data transmission ('352 –col. 8 lines 58-67, in which a negative acknowledgement message is provided, in addition to a re-try by the transmitter.) It would have been obvious to one of ordinary skill in the art at the time of the invention for the controller of said data destination to send an error message to said imaging device by said wireless communications network after determining that said



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data and said identification information have not been successfully received, and said transfer manager responsively repeating said data transfer procedure to retransmit said data from said data buffers to said data destination, for the purpose of being able to know if the data transmission was received, and for the purpose of enabling the system to continue to function without unnecessary user intervention when an unsuccessful transmission occurs.

Regarding claim 36, Tsubaki, Kanevsky, Tanaka, Strandwitz and Callaghan disclose a system that includes all of the limitations of claim 36 (see the 103(a) rejection to claim 35 supra), as well as including a teaching by Callaghan of a system wherein an message is received and displayed if a transmission is unsuccessful ('304 – col. 12 lines 7-11), and a teaching by Kanevski of a system that stores the data until instructed to erase it ('470 – col. 6 lines 9-11.) It would have been obvious to one of ordinary skill in the art at the time of the invention to include the display of an error message as taught by Callaghan, in combination with continuing to store data until successful transfer is verified, within the system as taught by Tsubaki, Kanevsky, Tanaka, Strandwitz and Callaghan, for the purpose of not only ensuring that data is not removed from the imaging device until it has been successfully transferred to another location, but also for notifying the user that a transfer of data was unsuccessful and therefore amount of available memory for additional acquisition has not been increased.

**Claim 41** is rejected under 35 U.S.C. 103(a) as being unpatentable over Tsubaki (US 6,701,058) in view of Kanevsky et al. (US 6,393,470), with a supporting reference of the Applicant's Description of the Background Art.

Regarding claim 41, Tsubaki discloses all the limitations of claim 41 (see the  
5 102(e) rejection to claim 1/21 supra) except for disclosing a method wherein said imaging device is economically implemented without removable storage media capabilities. Nevertheless, Kanevski discloses a system for transferring data from an imaging device to a data destination wherein said imaging device is economically implemented without removable storage media capabilities ('470 – fig. 2 indicator 201,  
10 col. 2 lines 5-7.) However, both Tsubaki and Kanevski are silent as to the imaging device being economically implemented without removable storage media capabilities.

The Examiner cites as supporting reference, the Applicant's own admitted state of the art at the time of the invention as found in the Description of the Background Art section of the application, "For example, enhanced demands for increased device  
15 functionality and performance may require more system processing power and require additional hardware resources. An increase in processing or hardware requirements may also result in a corresponding detrimental economic impact due to increased production costs and operational inefficiencies" (Specification, p. 1 lines 23-28.) This passage supports what is well known within the art, that the inclusion of removable  
20 storage media capabilities is an increased hardware requirement that may result in a corresponding detrimental economic impact (please see Official Notice of Final Office Action dated June 2, 2005, p.10 lines 9-20.) It would have been obvious to one of

ordinary skill in the art at the time of the invention to implement the camera with strictly internal memory as taught by Kanevsky, for the purposes of, first, avoiding the costs associated with a removable memory, and therefore the reducing cost of the camera as a whole, particularly as the data within the device is transferable to a data destination without the requirement of removal, and second, avoiding the costs associated with the possible loss and replacement of a removable memory.

**Claim 44** is rejected under 35 U.S.C. 103(a) as being unpatentable over Tsubaki (US 6,701,058.) in view of Examiner's Official Notice.

Regarding claim 44, Tsubaki discloses a system for transferring data comprising an imaging device that captures and stores images (fig. 1 indicator 10), a data destination configured to receive transferred images (fig. 1 indicator 20), and a transfer manager of the imaging device that monitors the memory of the imaging device and automatically transfers the images when a predetermined threshold is exceeded (fig. 5, col. 7 lines 20-32.)

Official Notice is taken that a program of instructions, executable by a machine and programmable directly into a machine, are easily transferred to a computer-readable medium; a concept that is well known and expected in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have transferred the program of instructions to a program storage device readable by machine in order to increase the portability of the program from machine to machine.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5 Fukuoka (US 6,300,976) discloses an imaging device that can notify an external device when the memory is full.

Kiode (US 6,864,918) discloses an imaging device that transfers images to a computer when additional memory space is required.

Tanaka et al. (US 6,392,697) discloses an imaging device that wirelessly transfers images to a secondary device.

10

### ***Contact***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Vieaux whose telephone number is 571-272-7318. The examiner can normally be reached on Monday - Friday, 8:00am - 4:00pm.

15 If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NgocYen T. Vu can be reached on 571-272-7320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

- 5 For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gary C. Vieaux  
Examiner  
Art Unit 2612

10 Gcv2



NGOC-YEN VU  
PRIMARY EXAMINER